

**Access to Microfinance & Improved Implementation of
Policy Reform
(AMIR Program)**

Funded By U.S. Agency for International Development

Investor Road Map: Food Safety Inspection

Final Report

**Deliverable for Policy Component, Task No. 4.6.5
Contract No. 278-C-00-98-00029-00**

August 2000

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Summary

April 30 through June 28 2000

Amman, Jordan

This is a report of the activities in this Consultant during a mission to Amman Jordan from April 30 through June 28 2000 related to the Investor Road Map-Food Safety Inspection, AMIR - Jordan Project. The scope of work and the activities related to these items during this mission are described below.

Item 1: Assist the Ministry of Health and other relevant ministries or departments in developing memoranda of understanding to clarify the respective authorities of the Ministries of Health and Agriculture, JISM's and municipalities to supervise food establishments, take samples, and inspect imported foods.

During this mission, a controversy emerged as to the authorities of the ministries of health and agriculture as described in the proposed new Food Law. It was the contention the law eroded the authority of the Ministry of Agriculture in certain articles. Consequently, the Ministry of Agriculture refused to support the adoption of the law. The Consultant was requested to prepare a document that would describe the authorities of each of the two agencies involved. In addition, this document would also proposed a means by which this controversy could be resolved. The Consultant prepared a position paper entitled "Proposal for the Jurisdiction Boundaries of Official Food Control Organizations in Jordan". This document describes the traditional separation of powers between the Ministry of Health and Agriculture, standards organizations and local municipality health departments in most countries. The document suggests a similar structure for the separation of powers in Jordan. The Consultant also reviewed the proposed Food Law in an effort to identify the offending text within the Law for possible revision.

A meeting was scheduled with ranking level management of the Ministry of Agriculture for discussions related to those particular portions of the food law which were considered by the Ministry to be offending. Representatives of IBLA and the Amir Consultant for agricultural policy attended the meeting. During this discussion, it was apparent that some of the problem was due to misinterpretation of the text. The Ministry indicated they would compile a written document in which they would identify each offending section of the proposed food law and recommend revised text to replace them. The Consultant was not informed if this report was ever prepared nor was a copy provided if it was prepared.

The Consultant prepared an additional document related to the use of Memorandums of Understanding. These memorandums are often used to clarify the various positions of organizations that have situations that need to be resolved, related to jurisdictions, authorities, and other important issues. Such agreement exist between the United States Department of Agriculture and the United States Food and Drug Administration to clearly defined the jurisdictional boundaries which are not clearly delineated in the food laws. The document provides examples of the memorandum of

understanding that exists and is the Agreement for which both agencies are obligated to follow. The Agreement is reached and the memorandum of understanding drawn as results of negotiations between the two agencies to resolve its differences and record its decisions. Further, these Agreements are reviewed at periodic intervals in order to keep them updated to changing times. This is a classic example of how this Agreement can work in Jordan. These matters were discussed openly with the staff of the both agencies, however no action was taken by either organizations at any time during this mission.

Further complications of this issue emerged with proposals put forth by both industry and agency representatives of government which would establish a separate oversight agency at the prime minister's department level and an additional proposal to establish a new organizational unit in Jordan similar to the United States Food and Drug Administration. These proposals, while being considered, resulted in a hold on any further action on the proposed Food Law. The position of the Amir project was that Jordan made a commitment to the working party of the WTO to have a food law in place by February 2000 later, extended until April 2000, and action should be taken on the proposed food law while these other proposals were being considered. The Consultant will monitor this issue during future missions.

Item 4: assist the Ministry of Health in developing procedural guidelines for food sampling and handling from the port to the laboratory and defining it to nationally excepted methods of testing.

During this mission, the Ministry of Health revised their sampling plan. This plan was reviewed by the Consultant and found to be acceptable in most all cases. Additional work will be done with the Ministry in further refining this plan during future missions. The Consultant also conducted a brief assessment of the Ministry of Health's laboratory in Aqaba to determine if this laboratory would be suitable for increased level of activity of sample analysis of products arriving at the port of Aqaba. At the present time, this laboratory receives approximately 20 percent of the samples collected from imported goods at Aqaba with the additional 80 percent of those samples are transported to Amman for analysis at the central Ministry of Health Laboratory. This adds considerable delay to the processing of the products through the importation procedures. A report was prepared related to this assessment and concluded that this laboratory required upgrading of equipment, installation of new analytical instruments, personnel training, and renovations in or to enhance its capability to handle the additional workload. In discussions with the Food Safety Directorate, the general feeling was that to a new laboratory facility would be needed.

Currently there are plans for establishing a Special Economic Zone in the Aqaba area and there is likely to be many new facilities and new procedures established to accommodate this enterprise. This item will also receive monitoring by the Consultant in future missions.

Item 8: assist the Ministry of Health in drafting instructions for retesting food imports that would allow producers and importers to appeal test results and in the right to have food analysis done by third party accredited laboratories.

The Ministry of Health has had a policy in the past, which prevented retesting of samples when industry disagreed with the results of analysis by the Ministry. This policy has been changed and the current policy is that if sufficient reasons are presented, the Ministry agrees to retest the sample at the importer expense. For this reason 1/2 of the original sample collected at the port of entry is reserved for future testing if needed. In this way and medical sample is used for the retest rather than drawing a new sample which may reflect differences in the sample rather than in the law to a product. The Ministry of health laboratories would perform the retest. The results will be considered final.

The proposed new Food Law currently has a provision, which allows for appeal of the ministry's decisions. When this new law is adopted, the Consultant will provide assistance to the Ministry and developing the procedural framework for executing this provision, including the criteria for retesting, the procedures for requesting such testing, and the opportunity for retesting at certified outside laboratories or other sources this item will be continuously monitored by the Consultant during future visits.

Preliminary Assessment ; Ministry of Health¹ “Aqaba Food Testing Laboratory

May 30, 2000

During a visit to Aqaba, Jordan from May 29-31, 2000 as a part of the assessment of the controls and sampling procedures for imported food products under the Investor Road Map, this Consultant visited the Ministry of Health Food Testing Laboratory, among other activities. During this visit, and at the request of AMIR, a preliminary assessment was made of the capability, capacity and needs of the laboratory operation. In addition, within the limits of the time constraints, some information was obtained concerning the need of equipment, and personnel training. During this visit, discussions were held with the Director of the Laboratory, Dr. Abdul-Rahman Shokini, and other members of the staff. The following information is reported.

The Laboratory is located about 10-12 kilometers from the Port of Aqaba. The building is entirely dedicated to the laboratory facilities. The Laboratory is officially a laboratory of the Ministry of Health and is responsible for the analysis of food products delivered to the facility for that purpose. Food samples represent products from both domestic and imported sources. There are 11 professional employees on staff. Two are qualified as Veterinarians and eight have BA - MA degrees in food sciences. Non-professional staff is employed as assistants and provides services within the laboratory context.

The laboratory has four sections. Each section is designated for specific analysis and test. They include general appearance examination and testing, microbial, chemical and aflatoxin analysis. The type of testing and the capability of the laboratory are as follows for each section.

General Appearance: This testing consist of physical inspection of the product for general appearances of the product for obvious defects or evidence of contamination. Testing is done to check the color, odor and consistency of the product compared to expectations for the product. Other testing includes rancidity testing for oil and fat containing products, evidence of filth, (insect, rodent or other vermin contamination) and the presence of parasites.

Microbial: The laboratory has a fully functional microbial laboratory that includes the preparation of bacterial growth media, sterilization equipment and incubators. Commercially available nutrient materials are used for the growth media. A High Efficiency Particle (HEPA) filtration hood was also observed. According to the section head, the laboratory routinely tests of *Clostridium botulinum*, *Bacillus cereus*, *Escherichia coli*, *Aspergillus* ssp, *Staphylococcus aureus*, *Streptococcus*, *Salmonella*, Coliform, and Total Bacterial Counts.

¹ Prepared by Anthony J. Whitehead
Consultant - Food Safety AMIR -Jordan Project
July 10 2000

Chemical: The laboratory is equipped with an Atomic Absorption Analytical instrument with flame detectors, and routinely tests for common heavy metals and inorganic chemical contaminants. Other chemical analyses are extremely limited due to the lack of analytical instruments. A functional laboratory for food analysis should have the capability to perform organic chemical contaminants and particularly analysis for pesticides residues, animal growth promoting hormone residues and residues from other veterinary drug treatment of animals. Analysis for these contaminants require Gas Chromatography (GC), Spectrophotometric instruments, including Mass Spectrophotometric (MS) analytical instruments. Training for the personnel will be required in performing these complex analytical procedures.

Aflatoxin: The laboratory has the capability to detect Aflatoxin B₁ and B₂ and G₁ and G₂. These toxins are associated with the *Aspergillus* mold. Detection of other toxins from mold is not within this laboratory capability, including the toxin M₁ and M₂ and Ochratoxin.

During 1999, this laboratory performed analysis of about 15,200 total food samples. Nearly all received some level of examination and testing for general appearances. A total of 7,300 samples were tested for microbial contaminants, 5,300 samples were tested for chemical contaminants, and 2,500 samples were tested for aflatoxin toxin. This laboratory accounts for about 20 % of all samples analyzed from import sources and from 1 to 2 % of the domestic food products tested in Jordan.

The Jordanian Ministry of Agriculture chemical laboratory in Amman routine performs chemical testing for the Ministry of Health, including pesticide, hormone, and veterinary drug residues. The Ministry of Health laboratory in Amman performs nearly 80% of all imported food analysis in Jordan.

The Aqaba MOH laboratory is not well equipped to perform modern food analysis. Professional employees need training in current analytical methods of analysis for food, particularly in the use of instrumental analysis. These methods are more accurate, have a higher level of sensitivity and are more efficient. The MOH laboratory is suitable placed (close to the Port in which most food imported products enter Jordan) and therefore should be a fully operational laboratory with the capability to perform all food analysis. The laboratory has sufficient space to permit the expansion of its current capability, and would permit the streamlining of the import procedures related to analytical testing of imported food. No quality assurance system is in place and the procedures meet only a portion of the "Good Laboratory Practices" required for acceptable performance.

Recommendations

The laboratory should be subjected to a complete assessment by a qualified laboratory consultant to determine what is needed to bring this laboratory to the level of a fully functioning food safety laboratory that meets internationally established standards.

The assessment should include an evaluation of the current methods used, the equipment and instrumentation needed, and training needs of employees, to improve

the capabilities and subsequently the quality of work performed, including the implementation of an internal laboratory quality and safety assurance programme.

A system of laboratory management should be implemented that establishes a regulatory approach to the handling of samples, procedures to be followed to assure the integrity of the analytical process and the accuracy of reporting results.

The capacity of the laboratory should be increased to effectively carry out the full analytical workload for imported food products entering Jordan at the Port of Aqaba. The workload should be based on a reduced level of monitoring in keeping with a risk-based system of import food control that focuses on high and moderate risk foods, as opposed to a 100% control level.

Briefing Paper on the Issue of Jordanian Food Law

INTRODUCTION²

Jordan food control has its basis in the Public Health Law #21 (1971) (PHL), the Agricultural Law (AL), the Standards and Metrology Law (SML), the Crafts and Industry Law #16 (1953) (CIL), and the Law on Municipalities (LOM), among others. Each law has a different constituency in that the PHL authorizes the Ministry of Health (MOH) to carry out food safety and some food quality activities. Likewise, the focus of all authority in the AL is the Ministry of Agriculture (MOA) and the SML is the Jordanian Institute of Standards and Metrology. In contrast, the CIL grants authority to both the MOH and the MOA and to other government entities, such as the Municipal authority. The LOM grants authority to the Municipalities and allows the MOA to carry out some functions related to slaughtering and the operations of slaughterhouses. Most of these laws authorize the named competent authority to carry out examination and inspection of food, including food from imported sources.

In Jordan's efforts to accede to membership into the World Trade Organization, a number of policy reforms were necessary. Among these reforms were the review and up-dating of laws which would impact upon trade. Among the laws which impacted on food trade were the Standards and Metrology Law, the Agriculture Law and the Public Health Law. These laws required up dating to comply with the technical agreements of the WTO, namely the Technical Barriers to Trade Agreement (TBT) and the Agreement on Sanitary and Phytosanitary Measures (SPS).

Consequently, the Standards and Metrology Law was significantly revised, agreed upon within the government and enacted by the Jordanian Parliament. The revised Law on Standards and Metrology is now in effect. Certain provisions of the Agriculture Law were revised and significant additions were added to this law. The MOA agreed with the changes and submitted it for consideration by the government for enactment, however, to this date there has not been any action taken. Related to the Public Health Law, the articles dealing with food were determined to be inadequate and the decision was made to introduce a new law that would be solely dedicated to the regulation of food safety. A new law was drafted and was accepted by the MOH and submitted for government consideration. Thus far, no action has been taken on this law.

ISSUE OF JURISDICTIONAL OVERLAP

A workshop was held as one in a series of activities related to an Investor Road Map Study conducted in 1998 by World Bank/FIAS and USAID/AMIR-Jordan Project. The study identified a number of obstacles to investment resulting from current policies and procedures connected with food safety inspection. The study identified problems without addressing the cause of the problems.

In May 1999, additional discussions and rebuttal to some portions of the study were presented at another workshop, however the causes were again not addressed and no positive strategy resulted. Impetus was added to finding reasonable and workable solutions to these issues by the progress made by Jordan's accession to membership to the WTO. Conformity requirements related to human food safety, plant and animal

² Prepared by A. J. Whitehead
June 30 2000

life and health protection provisions of the WTO agreements demanded action to resolve these issues. Consequently, an AMIR/IPC jointly sponsored an additional workshop that was held in December 1999 for this purpose. This workshop was augmented by a workshop sponsored by the Ministry of Planning at about the same time with almost identical results. Issues identified in the World Bank/USAID AMIR Study related to law and regulatory policy concerned overlapping jurisdictions of government agencies in food inspection. They are:

Overlapping legal authority and responsibilities by law to supervise food stores, and to take samples of food for health reasons.

Overlapping legal authority and responsibilities by law to inspect products produced locally at the site of production.

Inspection of raw materials and the production process.

These issues pertain primarily to imported food product inspection, however domestically produced food products are equally affected by unnecessary overlapping authority. At present, in the absence of the newly proposed food law and the revised Agriculture Law, the MOA and MOH have joint responsibility for some food products. They include raw or semi-processed agricultural products such as meat, fresh raw vegetables and fruits, milk and some dairy products, grains and eggs.

Background

Effective food control requires the establishment of national objectives in food safety and quality. Measures are required to achieve maximum health and safety protection for the public from the hazards associated with food along the entire food chain. This involves the implementation of a national risk analysis programme. The analysis should be based on sound, internationally accepted scientific methods to identify and characterize hazards in food and to evaluate their significance to do harm to the consumer. Measures taken should assure acceptable level of protection against adverse health consequences.

All aspects of quality should be controlled to assure the public that food products are consistent and of dependable quality to provide appropriate value for the money spent. Food should be of high nutritional value, appropriately and informatively labeled to allow the consumer to make good market choices, and should be absent of any trading malpractice in the displaying, distributing and selling process.

Food control organizations, regardless of their jurisdictional authorities, must come together, with the participation and input of the public and the food industries to formulate the national objectives and overall goals on behalf of the public. Food control organizations should be held accountable for their performance in achieving these objectives.

There is no substitute for a high degree of cooperation, coordination and jointly implemented measures, in a nationally consolidated effort, to achieve national food quality and safety objectives. At the same time, the control measures should not impose unnecessary barriers on the economic and trade environment, nor should they be arbitrary or be applied in a discriminatory manner. These principles are now the newly created rules of the international food trade and are embodied in the terms of the World Trade Organizations trade agreements.

Status of Proposed Food Law

The proposed Food Law and the revised Agriculture Law have not received parliamentary consideration pending resolution to objections by the MOA and others related to some provisions of the food law. MOA has expressed concerns that the proposed Food Law provides authority to the MOH, which diminished the authority of MOA. In addition, the proposed law provides the MOH authority in the same subject area of competency as MOA, and it may be construed to grant MOH authority that should be the responsibilities of MOA.

A careful analysis has been made of the proposed law for overlapping, conflicting, contradicting and unnecessary redundancy. In view of the concerns expressed by MOA and following discussions with the staff of MOA, the following comments may apply.

CONCERN: The MOA expressed concern that the definition of food includes raw and semi-processed foods for human consumption. The implication, according to MOA, is that the MOH will have jurisdiction in areas that are traditionally within the purview of the MOA. Raw and semi-processed foods would include meat, fresh raw or partially processed vegetables and fruit, milk and milk products, eggs, grains and some dairy products.

COMMENT: The definition was adopted from the Codex Alimentarius Commission. It is accepted internationally. The definition is a direct quote from Codex, with the exception that the words "pickles" and "spices" have been added to the definition at the request of MOH. The definition does not grant any authority however it does cause a **necessary overlap** in jurisdictions between MOA and MOH. The overlap is for two different and distinct purposes with MOA having authority over the quality aspects of these products and MOH having authority over the safety aspects of these same products. For the sake of effective administration of food control activities and for efficiency in implementation of these activities, agreements between the two agencies can be drawn up which allow one agency to act for the other when carrying out its own functions. Memorandums of Understandings are a common approach to resolving overlapping jurisdiction problems and are explained further in this document.

CONCERN: Because of the definition for "food" in the proposed food law, MOA is concerned that MOH will exercise its authority at the farm and wholesale market level, which are traditionally and by law within the authority of the MOA.

COMMENT: The MOH is granted authority to take all measures necessary at all times and in all places as part of its mandate as the guardian and protector of the national public health. This authority is rendered in the public health law. It is the traditional role for health ministries in nearly all countries of the world. This authority generally applies to any place and at any time when there is a suspicion or evidence that a public health threat is present or eminent from any source. The proposed food law confirms this authority with respect to food related risks and from food handling and circulating processes and establishments. Just as communicable diseases, safe waste disposal, safe drinking water, disease causing vectors and vermin control are integral parts of public health protection, so too is the safety aspects of food. The proposed food law merely confirms this authority. This would mean that the MOH would have jurisdiction on the farm and in the wholesale market if a breach in food safety threatens the public health. It would be appropriate for MOH to coordinate any

such activity with MOA and to cooperate with MOA in resolving or controlling the threat. The proposed food law does state that the MOH is the sole authority in Jordan on matters related to supervision and sanitary control of food from domestic and imported foods to ensure suitability for human consumption, however this authority is subject to that which is stipulated in the Agriculture Law in force.

CONCERN; The MOA will have authority under the revisions to the Agriculture Law to prepare standards and technical regulations related to plant and animal origin products for domestic and imported sources. If the MOH also has this authority, as indicated in the proposed food law, then the two organizations will be required to link these regulations. Also there must be assurance that the agencies do not issue incompatible or contradictory standards and technical regulations.

COMMENT: The Jordanian Institute of Standards and Metrology is the food standard setting body in Jordan. The Law on Standards and Metrology was recently revised and enacted and is now in complete effect in Jordan. As a rule, JISM will be responsible for the establishment of food standards. Mandatory Standards or technical regulations needed for animal and plant health and life protection and for human food safety are most likely to be issued by MOA and MOH respectively. Consequently, the two organizations will have the authority to issue technical regulations under the revised Agriculture Law (MOA) and the proposed food law (MOH) for their respective purposes. Because the JISM process for standards development is a deliberative process, some standards may take a considerable amount of time to complete the process to adoption. The provisions in the proposed food law allowing the development of technical regulations were added so that the relevant agency may deal with emerging problems, emergency situations which demand immediate action in the public health interest, or involve circumstances which can not be delayed by the standard developmental process required by JISM. These technical regulations or mandatory standards could also be adopted officially by JISM, however they may need to be processed through the JISM adopted procedures for the development of standards. However, nothing precludes this process to be utilized in the development of a standard that has been implemented by the Ministries on an emerging basis.

CONCERN: MOA has also expressed the concern that the proposed food law refers to food factories and enterprises in terms of licensing, regulating, inspecting etc. This could conceivably be construed to apply to slaughterhouses, butcher shop, olive press houses and perhaps other establishments, which fall under the authority of MOA.

COMMENT: At present, The Craft and Industry Law (1953) provides the MOH authority for licensing and regulating food-handling establishment. This law establishes three different categories of establishments for licensing purposes. Category Three specifically designates establishments that would be under the jurisdiction of the MOA, including slaughterhouses, farms, dairy shops, stables, etc. However, there is no text in the law that prohibits MOH from exercising its authority at these establishments. As in the comments above, the MOH generally is authorized to enter any place and at any time when acting in the public health interest. This situation is within the category of a necessary overlap and is best managed through mutual agreement among the concerned agencies.

CONCERN: MOA has express the concern for overlapping responsibilities for adulterated food resulting from meat from a diseased animal or an animal that has

perished from reason other than controlled slaughter. The MOA has this responsibility to prevent the slaughter of diseased animals and to assure that all meat comes from healthy live animals at the time of slaughter. The proposed food law indicates that any meat from a diseased animal or an animal that has perished for reasons other than slaughter would be considered as adulterated and as such would not be suitable for human consumption.

COMMENT: In the provisions of the proposed food law, the term "adulterated" or "Cheated" is defined by providing descriptions of what constitutes adulterated food. This text in this proposed law is common in most all food law worldwide. The purpose for including it in the food law is to provide the authority for the MOH to act in circumstances not covered by the Agriculture law. As an example, meat that results from clandestine slaughtering operations not in a slaughterhouse, or to assist the MOA if there is a major public health need resulting from either an intentional or unintentional breach in the animal inspection program at the slaughter house, or to deal with problems from an international source for which MOA does not have authority. This is another area for mutual agreement between the relevant agencies and is a **necessary overlap**.

CONCERN: The revised Agriculture Law has a provision that allows the relevant agency to exercise the right to waive quarantine and/or inspection requirements for imported animal and plant origin products or for live animals or plants. The waiver would be invoked in circumstances where a mutual recognition agreement (MRA) has been executed as in the case of the equivalence provisions of the SPS agreement, or, in the case of live animals and plants or their materials from exporting countries known to be free of disease or pests and the products are from the disease or pest free area. MOA has concerns that the proposed food law does not have such a provision and that MOH reserves the right to prohibit or restrict imported food until it has been cleared through the MOH process of import inspection and laboratory analysis. The MOH activity would counter the mechanism put in place to relieve the necessity for such activity.

COMMENT: This may be a concern that needs to be "fixed" before enactment of the proposed food law. The proposed food law should be revised to include a provision to allow for the alternative activities provided in international agreements in lieu of 100 border control for imported foods, as is the present MOH policy. In addition, the article dealing with powers and duties (Article 5) which requires that the relevant agency is to prohibit the handling or entry into Jordan of any food "before testing it" and verifying that it is fit for human consumption and is safe. would need to be revised. This requirement to test all products from all sources is not realistic and can not be accomplished at the domestic and import level. Consequently, it would be a double standard and discriminatory against imported food products under the TBT and SPS agreements of the WTO. The provision should be altered to prohibit the circulation of any food, regardless of its source, that is unsuitable or unsafe.

An additional consideration for this concern is that MRAs are intended to clearly identify what is or is not to be done based on the established equivalency parameters between the agreeing parties. MOA should only be negotiating MRA within the scope of their legally granted authorities which includes the health and safety of live animals and plants, and the quality of certain human foods. Any MRAs that involves food

safety issues should include the MOH in all stages of its negotiation and implementation.

Beyond the above-mentioned concerns from official source, the private sector in Jordan has also expressed some concerns about the present state of food control in Jordan. These complaints were expressed through business associations to the government. A proposal was put forth and is currently under study, which would create a separate food control agency. This proposal was later expanded to include medical drug quality and safety control and a centralized laboratory authority. The private sector proposed a food and drug law, which would implement such an organization and would relieve the MOH and MOA of all responsibilities related to food control. The events associated with this activity are not included in this paper and are not within the scope of this consultant's activities.

Memorandum of Understanding

One way of resolving areas of concern, jurisdictional disputes, controversy between official organizations, or to enhance performance in cooperative activities, coordinate policy development and implementation, or to clearly define the responsibilities of organizations carrying out similar or related mandates, among agencies, is to execute a Memorandum of Understanding (MOU). It is a common tool to settle differences of opinion or understandings and resolve problems to the extent that the terms of agreement are clearly set out in writing and are required to be followed. Such agreement are usually negotiated and generally are agreed and signed by the concerned ministers or their designates. These agreements, for which there may be several between the same agencies on different subjects, will generally be in effect for a specific time period at which time they will be renegotiated to keep them current with the times. In some cases, they may be dissolved as no longer needed, or may be re-negotiated before the expiration time to deal with changing circumstances.

It is considered to be in the interest of good governance to utilize the MOU to settle internal government differences rather than to allow for internal differences to erupt to the external political and public levels, which may adversely reflect upon the capability and effectiveness of government to solve its problems or affect public opinion in this regard. It is also a straight forward and transparent means for clearly defining what are the general areas of agreement on any issue, and providing a forum for substantive discussions on the real differences on the issues between the concerned parties.

For decades, there has always been concerns and differences in opinion between health and agricultural officials over the jurisdictions and responsibilities for the quality and safety of foods and related matters. The use of the MOU has resolved many of these differences and has added programme efficiency and greater cooperation among officials and official agencies. The real beneficiary is the public who receives more effective food control through cooperative consumer protection programmes within government. MOU's have countless uses. They are used for defining the terms of cooperative activities and measures between foreign governments. They are used within countries and between government agencies to

resolve various issues, between official agencies and private sector, NGO's, Consumer organizations, etc.

Attached is a copy of the MOU which is current between the U. S. Food and Drug Administration and the U. S. Department of Agriculture, Food Safety Inspection Service, which sets out the jurisdiction and responsibilities of each agency related to meat and poultry inspection in the United States, which can be used as an example, if needed.

Recommendations

The Jordanian commitment to the WTO was to have a food law in place by April 2000. This commitment time has passed and it is important for Jordan to proceed with meeting this commitment as soon as possible.

The GOJ has undertaken a study of alternative food control organization and infrastructure for the future. This study may be holding up the further consideration of the enactment of the proposed food law. It is suggested that the food law received favorable consideration toward enactment, while the study is being conducted. When the results of the study are known and a decisions is made related to implementation, any necessary changes can be made in the law, infrastructure or organizational arrangements in a phased-in manner to prevent any disruption in protecting the consumers during the transition period.

The proposed food law was drafted in mid 1999. Before this law is forwarded for enactment consideration, it is recommended that experts re-review this law for necessary changes and any minor fine tuning necessary in lieu of other related laws which have been enacted or proposed law, which may need consideration. (JISM Standards and Metrology Law, Revised Agriculture Law, Customs, etc.)

Existing concerns of the MOA and MOH or other official agencies should consider the use of the MOU to clearly define the issue, set out the responsibilities to be carried out by the concerned parties, and the means by which there is agreement on how the issue will be managed. (Copy of an active MOU between the US Food and Drug Administration (FDA) and the Food Safety Inspection Service (FSIS) of USDA is attached as Annex 1)

The private sector must also recognize that food safety is a high-risk business and as such requires a higher level of regulation than most other industries. Traditional methods of food control involve factory inspections and product sampling for laboratory analysis. Frequent visits for this purpose is the means by which food quality and safety is assured. Consequently, a reasonable number of visits to the factories for inspection and sampling of food products is to be anticipated.

The Consultant prepared a paper related to jurisdictional boundaries that could be applied to Jordan for the major food control organizations. A copy is attached as Annex 2 for informational purposes.

The consultant prepared a list of recommended minor changes to the proposed food law and a copy of this memorandum is attached for information as Annex 3.

A PROPOSAL FOR JURISDICTIONAL BOUNDARIES of OFFICIAL JORDANIAN FOOD CONTROL ORGANIZATIONS³

INTRODUCTION

The competent authority for food control in Jordan is vested in three different organizational units of the government, the Ministry of Agriculture (MOA), the Ministry of Health (MOH) and the Local Municipality Authority (LMA). Minor responsibilities carried out by other official agencies of government in the area of food control are not considered in this paper. They should be considered later in an effort to transfer these minor duties to major agencies with control functions to enhance efficiency.

Effective food control requires the establishment of national objectives in food safety and quality. Measures are required to achieve maximum health and safety protection from the hazards associated with food along the entire food chain. This involves the implementation of a national risk analysis programme. The analysis should be based on sound, internationally accepted scientific methods to identify and characterize hazards in food and to evaluate their significance to do harm to the consuming public. Measures taken should assure acceptable level of protection against adverse health consequences.

Food control organizations, regardless of their jurisdictional authorities, must come together, with the participation and input of the public and the food industries to formulate the national objectives and overall goals on behalf of the public. Food control organizations should be held accountable for their performance in achieving these objectives.

There is no substitute for a high degree of cooperation, coordination and jointly implemented measures, in a nationally consolidated effort, to achieve national food quality and safety objectives. At the same time, the control measures should not impose barriers on the economic and trade environment unnecessarily, be arbitrary or be applied in a discriminatory manner. These principles are now the newly created rules of the food trade and are embodied in the terms of the World Trade Organizations trade agreements.

³ April 18, 2000

Authored by Anthony J. Whitehead, Consultant- AMIR-Jordan Project

Anthony J. Whitehead is a former Senior Officer of the Food and Nutrition Division of the Food and Agriculture Organization of the United Nations and served in this capacity for the past 6 years. His responsibilities included the liaison activities with other UN organizations such as the World Trade Organization (WTO), regional trade organizations such as the European Community (EC), APEC, and at the national level with the 174 Member Countries of FAO, related to food quality, safety and trade. He was also responsible for providing technical assistance to FAO Member Countries to strengthen food control systems to assure acceptable levels of quality and safety for food shipped in international trade world wide. He served 28 years in varying positions from Investigator to the Director of a major office of the United States Food and Drug Administration in the enforcement of US food laws before going to work at the international level with the FAO.

Food control is an activity that involves the application of knowledge, information and skills based in many different scientific disciplines. Required scientific disciplines range from inorganic and organic chemistry, physical chemistry, biochemistry, bacteriology, virology, cellular biology, molecular biology, genetics, human and animal medicine, human, plant and animal pathology, toxicology, statistics, food technology, to name a few. As a rule, expert personnel with capability in many of these disciplines are found in all areas of society but rarely in one place or in government.

It is desirable, therefore, to seek the collaborations of those with the required knowledge and skills from all sectors of society to develop food control objectives, strategies and programs. The sectors would most likely involve government, research institutions both private and public, academia, industry and the consumer at the very least. Important synergies can be developed and applied to achieve effective and efficient food control regardless of the national assigned jurisdictions, the legal authority or the traditional roles considered appropriate for agencies of government. Through cooperative and coordinated actions on the part of each agency, each with its special knowledge, skills and experience can contribute to policy development and problem resolution in a synergistic manner for achieving the best results possible. Appointment of standing and "ad-hoc" expert committees is a means to overcome the technical deficit that may exist in the government organizations.

The following is a proposal related to the anticipated and expected mission objective, responsibility and jurisdiction for official food control organizations in Jordan. The proposal is based on the general principles governing international food control activities somewhat summarized in the introduction to this proposal, and the generally established responsibilities of official food control organizations of other countries.

MINISTRY OF AGRICULTURE

The following areas of responsibility traditionally fall within the authority and general duties and responsibilities assigned to ministries of agriculture. The below listed responsibilities are common for official Agriculture functions in most countries. All responsibilities listed below are to be related to animal husbandry or plant culture intended for use in human food either in a raw, primary stage, semi-processed or processed state.

Animal and Animal Products

The Jordanian Ministry of Agriculture (MOA) should be responsible for establishing and maintaining the national standard for acceptable "Good Agricultural Practices" and "Good Veterinary Practices" in Jordan, based on internationally acceptable practices. Support and guidance should be provided to the agricultural sector through practical rules, regulations and guidance material, inspection and grading services, extension services and educational programs. Technical regulations and rules should be based on existing authority emanating from the legal framework, and responsibilities for oversight and control over agricultural policies, requirements and

practices. The following duties and responsibilities are generally associated with the assigned mission of agricultural ministries and consistent with international norms related to agriculture.

Establishing the policies, rules and practices, as needed, in all matters related to the care, maintenance, breeding, housing, health and safety of live animals including:

- Mitigating, preventing, treating and curing animal diseases for domestic herds;
- Implementing measures to prevent the introduction and spread of animal diseases and pest into Jordan from foreign sources;
- Monitor animal disease and pest status within Jordan;
- Coordinate Jordanian programs to control and eradicate animal diseases and pest, and the control of disease free areas and areas of low pest and disease prevalence with international animal health authorities;
- Assure compliance with requirements of international and regional trade agreements related to live animal health and safety;
- Serve as the national resource for all matters related to animal husbandry.

Approve the use of veterinary drugs or other chemical or biological materials intended for animal health and safety purposes and other veterinary purposes in animals, particularly those that are intended for use in human food.

Establish on-the-farm practices and conditions for the maintenance, care, good health and safe environment (water, food, air, industrial exposure, etc.) for animal husbandry. Responsibilities should include establishing requirements and enforcement activities for:

- Acceptable conditions and operations of animal facilities;
- Provisions for available safe water;
- Appropriate feeding practices;
- Safe handling and on the farm storage of animal feeds;
- Appropriate pest control measures and practices;
- Control and prevention of industrial contaminant and toxic chemical exposure; and,
- Other precautions to prevent contamination of live animals intended for human food.

Regulate the quality and safety standards of animal feedstuffs intended for animals to be used for human food. Standards or technical regulations should be established to include:

- The safety of additives, nutrients and medications added to feed intended for disease prevention and control (i.e. hormones and antibiotics);
- The quality and safety of feed ingredients used in the manufacture of animal feedstuffs;
- Animal feed processing, manufacturing and control procedures; and
- Storage conditions for raw materials and finished product feedstuffs.

All matters related to the health of animals offered for slaughter and the quality and safety of meat resulting from animal slaughter, including:

- Ante-mortem and post-mortem inspection;
- Supervision and control of animal slaughtering procedures;
- Licensing and inspection of slaughterhouse and meat product processing facilities;
- Setting standards for hygienic conditions for slaughterhouse and meat processing operations;
- Supervision and control of carcass and meat handling, storage and transportation methods, conditions and requirements; and,
- Assuring compliance with established quality and safety standards for meat and meat products from domestic or imported sources used for further processing of food for human consumption.

LIVE PLANT AND PLANT PRODUCTS

Establishing the policies, rules and practices, as needed, in all matters related to health and safety of live plants, including:

- The mitigation, prevention, treatment and cure of domestic plant diseases;
- Implementing measures to prevent the introduction and spread of plant diseases and pests into Jordan from foreign sources;
- Monitor plant disease and pest status within Jordan;
- Coordinate with international plant protection authorities, Jordanian programs for control and eradication of plant diseases and pests, and control of pest and disease free areas and areas of low pest and disease prevalence;
- Assure compliance with international and national trade agreements related to live plant health and safety;
- Serve as a national resource for all matters related to plant cultivation.

Approval for plant safety purposes, treatment measures including the application of chemical, biological and use of physical means to control plant disease and pests of plants and crops used for human and animal food purposes.

Establish on-the-farm practices and conditions for the cultivation of crops and plants to assure the acceptable levels of quality and safe plant materials intended for human or animal consumption or as ingredients of human food or animal feedstuffs. Establish requirements and appropriate guidelines, if appropriate:

- To assure that food crops and plants are cultivated in appropriate locations to prevent contamination by industrial and environmental contaminants and toxic materials.
- For pre-approval of and establishing acceptable practices and condition of use of chemical and biological fertilizers, pesticides, growth

promotion chemical, weed control, and other plant and crop treatments materials;

For acceptable quality levels of water used in plant and crop cultivation and irrigation;

For appropriate post harvest handling practices, storage conditions and transportation methods;

For appropriate methods and practices to control pest during on the farm storage.

For post harvest processing practices including washing, separating, cleaning, aerating, drying, culling, trimming, polishing, and other post harvest treatments used to prepare food crops and plant materials for marketing as human or animal food or as ingredients in human or animal food.

Inspection of food crops and plant materials intended for human and animal consumption from domestic and import sources for compliance with Jordanian standards.

Provide grading services for food crops and plant materials intended for human and animal consumption in accordance with established grading standards where they exist.

GENERAL CONSIDERATIONS

The Ministry of the Agriculture, in most countries, has the authority to supervise and control animals intended for human food production from the farm to slaughter to assure that only healthy animals are allowed to enter into the human food chain. Qualified personnel, usually with veterinary science degrees (university level), supervise slaughtering and inspect slaughterhouse facilities. This includes ante-mortem and post-mortem inspection of animals at the time of slaughter, and assuring acceptable conditions, practices and hygienic handling of animals and meat throughout the slaughter operations. The conditions and practices which meet the national safety and quality requirements are usually documented in codes of practices or in technical regulations developed for this purpose and follow internationally acceptable standards.

The MOA has the responsibility to assure that human food from animal origin is safe and of suitable quality and is within the limits of acceptable levels of risk to the consumer.

Meat may be sold directly to the consumer, processed into various meat products and meat containing products. Meat sold directly to the consumer is usually raw and sold through meat wholesalers to retail markets for direct sale to the consumer. In this case, the MOA usually maintains food control authority to the point of wholesale distribution to the retail market. However, after the wholesale distribution to the retail level, jurisdiction is usually transferred to the local health authorities at the local level.

The general reason for this transfer is the overwhelming number of retail markets and sales facilities within the urban areas which handle raw or processed meat would require considerable person and financial resources beyond the scope of the a national food control organization to manage. In addition, municipal public health law frequently deals with conditions and public health problems unique to urban areas that are not usually included in the legal framework of national legislation for agriculture. Finally, the local health authority has authority and responsibility to monitor public service facilities of all types to protect the public from all types of health risks. These health risks range from improper sanitary and sewage controls and facilities, waste treatment operations, poor water and air quality and safety, human and animal vector and pest control, among other risks. Consequently, the local public health authority can and usually does control all food at the retail level as part of their general responsibilities to protect urban dwellers against general health risks within the city. In the rural areas, the district, state or province public health authority usually carries out this responsibility.

Processed meat products such as sausages, processed lunch meats or canned meats that are not combined with other non-meat food products remain within the jurisdiction of the MOA until sold to the retail level. At the retail level, however, processed or butchered meats will normally transferred to the jurisdiction of the local authority, as described above for the same reasons.

Meat can also serve as a raw material or ingredient in other food products, by combining meat with non-meat products to produce animal and plant origin food combinations. Canned lamb stews, frozen meat and pasta combinations, dinners with vegetable and meat products in the same container, etc are examples. When meat is used as an ingredient in processing and manufacturing of human food the jurisdictional control for food production and handling is usually within the national or local public health authority.

The level of distribution may also govern the jurisdiction for food control. Industries that distribute their processed or manufactured food products for the international level, the national level or both, will usually fall within the jurisdiction of the national public health authority (MOH). If the product is produced at only the local level and only for distribution at the local level, i.e. produced and distributed within the municipality, then jurisdiction is maintained at the local public health authority level.

In much the same manner, the jurisdiction of food control for food of plant origin products is the same as for animal origin product. The MOA has jurisdiction for the cultivation of food crops intended for both human and animal consumption in the fresh state. MOA also has jurisdiction over processing and processing parameters and conditions of plant products that are carried out as post harvest treatment, handling and storage. In this case, the MOA may also undertake grading and inspection of the commodities for compliance with existing standards. Fresh food products from plant origin may be consumed raw in there primary state by animals and humans. Fresh vegetables are also sold directly to consumers at the retail or directly from farms to fresh retail markets or directly from farms to consumers. In all cases, the fresh products are within the jurisdiction of the MOA.

Fresh food products from plant origin at the primary stage are also used as ingredients in the processed or manufactured foods. The public health authority, either national or local, usually has jurisdiction for safety and quality of the final processed or manufactured food products regardless of the ingredient sources (animal or vegetable).

It is important that Jordan maintain their food control system in keeping with the international norms seen in other countries within the region and those countries serving as primary trading partners. There are benefits associated with having a similar food control system that is compatible with the other countries, particularly when requirements, regulations and standards are closely harmonized. By maintaining similar responsibilities for Agriculture and for Health as in other countries, necessary networking on quality, health and safety issues related to food trade is simplified. When standards and regulations are harmonized, opportunity for equivalence agreements is enhanced and the need for monitoring, sampling and inspection of imported products are reduced. Relationships are better established between personnel of agencies with like responsibilities and understandings, similar training and education specialties, and who speak somewhat common technical language. Through the increased levels of international cooperation among the control organizations, opportunity for valuable technical assistance is also enhanced.

MINISTRY OF HEALTH

The traditional role of the Ministry of Health (MOH) is to protect the public against all health risks. This includes protection from unsafe foods. Authority is generally granted in public health law which most often include provisions related to the safety of food for human consumption and the processes, production methods and facilities in which food is produced, stored, prepared or sold. In most cases, these laws often overlap other laws. This is the case in Jordan at the present time with Law No. (21) for the Year 1971 Public Health Law, the current law for public health enforced by the MOA.

In most countries, the MOA has responsibility for the safety of all human food from the farm gate to the consumer plate. In many cases, this includes the quality aspects of human food as well. Control of food safety is universally accepted to include establishing measures which protect against human health risks resulting from hazards associated with additives to food, contaminant and toxins in and on food, infection of food by human disease causing organisms (pathogens), and un-hygienic conditions and practices in food handling, manufacturing, processing, preparing, storing, transporting, serving and selling of food.

Hazards can enter human food from a variety and endless number of sources all along the food chain. Each hazard presents its own level of severity of risk to human health, the adverse health effects of which can be compounded by the degree of contamination by a single food hazard, or the combination of different hazards in the food. Severity of the health consequences due to food hazards can range from minor discomfort of a temporary nature to death within a matter of hours.

Quality defects of food may be very obvious to the consumer from its odor, appearance or condition, however most food safety hazards are undetectable by visual or sensory observations by consumers. Consequently, unlike the situation with food quality defects, food safety hazards such as the presence of microbial contaminants, toxins, chemicals, or filthy materials incorporated in the food during handling are not only invisible, but they also represent serious risks in minute quantities to the consumer when consumed. The consumer has very little control over preventing health consequences from food safety hazards because there are few preventive measures within their control to exercise at the time of purchase. Therefore, there is little room for error in matters related to food safety and food control activities must concentrate on prevention before the fact.

Although the MOH in most countries have full responsibilities for all human food, these responsibilities are usually divided among different agencies depending on which agency has personal with the scientific and technical capability to deal with the specialized problems associated with some product. The division of labor is usually governed by government implemented agreements such as Memorandum of Understandings or by legislative language which allows specific authorities to be jointly shared or to be delegated from one agency to another. This is particularly true for meat and meat products in which the MOA carries out the authority even though MOH has some overlapping responsibilities.

The Jordanian MOH should be responsible for the safety aspects of processed or manufactured human food in Jordan. For the purpose of this proposal, manufactured

or processed human food does not include food consisting solely of meat or meat products in the fresh state, or have been chilled or frozen, and fresh fruits and vegetables intended to be sold for consumption in the fresh state. The MOH responsibilities are as follows.

Assist the Jordanian Institution of Standards and Metrology (JISM) in the development, issuance and amendment of Jordanian food standards.

Prepare and issue technical regulations and conformity assessment procedures related to the requirements for safety of human processed and manufactured foods.

Monitor and control the production of human processed and manufactured foods from domestic producers by:

- Licensing food processing and manufacturing facilities for conformance with established requirements;

- Periodic inspections of the facilities during production periods for conformance with technical regulations, production requirements and established sanitary measures;

- Physical examination, sampling and testing of human processed and manufactured food products for safety evaluation against existing requirements for additives, contaminants, toxins, disease causing organisms and evidence of insanitary or unhygienic practices or conditions;

Evaluate the safety and control the use of additives for human foods.

Monitor and control all manufactured and processed human foods offered for entry into Jordan from imported sources for safety, mandatory standards and sanitary measures compliance.

Monitor and control the export of human manufactured and processed foods related to food safety, standards and sanitary measures compliance.

Serve as the national resource on matters related to food safety.

Local Municipal Authority

The Local Municipal Authority in Jordan has overlapping and redundant responsibilities with the MOA and the MOH. They perform duties, which duplicate that which has already been done by the other two organizations. It is recommended that the existing functions of the LMA should be reviewed and any duplication should be eliminated. The LMA should have responsibility over food which is generally prepared and served to the public at public restaurants, private and public institutions, fast food and carry out food service facilities, hospitals, kiosks, fresh, wet and dry markets, supermarkets, grocery outlets, warehouse storage facilities, wholesale

markets and other food storage facilities, and retail outlets which sell food within the geographical area of the municipal authority.

The LMA jurisdiction should extend to those food-handling facilities within the geographical boundaries of the urban area designated and for those facilities that are not involved in production for national or international distribution. The LMA should not have jurisdiction over imported foods until after clearance by the national health or agriculture authority. Thereafter the food from import sources can be monitored within the municipality in the same manner as with the domestic food products.

Annex 1

Briefing Paper on the Issue of Jordanian Food Law

June 30 2000

MEMORANDUM OF UNDERSTANDING

Between The

FOOD SAFETY AND INSPECTION SERVICE

UNITED STATES DEPARTMENT OF AGRICULTURE

And The

FOOD AND DRUG ADMINISTRATION

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES

I. PURPOSE

This agreement between the Food and Drug Administration, Department of Health and Human Services (FDA) and the Food Safety and Inspection Service, United States Department of Agriculture (FSIS), is intended to facilitate an exchange of information between the agencies about establishments and operations that are subject to the jurisdiction of both agencies. This exchange of information will permit more efficient use of both agencies' resources and will contribute to improved public health protection.

II. BACKGROUND

In a May 1997 Report to the President entitled "Food Safety From Farm to Table - A National Food-Safety Initiative", the agencies primarily responsible for food safety made several recommendations to improve public health protection from foodborne illness. Several recommendations addressed the issues of increasing cooperation among agencies and, more specifically, of ensuring that the resources and experience of FDA and FSIS are used as efficiently as possible to avoid duplication of efforts. To advance the purposes of the President's Food Safety Initiative, FDA and FSIS have re-evaluated a previous Memorandum of Understanding on coordination of inspectional efforts signed by FSIS on July 14, 1983 and by FDA on July 25, 1983. The agencies have determined that changes in inspectional activities, available resources, and food safety hazards necessitate updating that agreement. Therefore, FDA and FSIS have entered into this Memorandum of Understanding to address today's public health needs.

III. STATUTORY AUTHORITIES

FSIS is responsible for implementing and enforcing the Federal Meat Inspection Act (21 U.S.C. 601, et seq.), the Poultry Products Inspection Act (21 U.S.C. 451, et seq.), and parts of the Egg Products Inspection Act (21 U.S.C. 1031, et. seq.). In carrying out its responsibilities under these acts, FSIS places inspectors in meat and poultry slaughterhouses and in meat, poultry, and egg processing plants. FSIS also conducts inspections of warehouses, transporters, retail stores, restaurants, and other places

where meat, poultry, and egg products are handled and stored. In addition, FSIS conducts voluntary inspections under the Agriculture Marketing Act (7 U.S.C. 1621, et seq.) FDA is responsible for implementing and enforcing the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301, et seq.), the Public Health Service Act (42 U.S.C. 201, et. seq), the Fair Packaging and Labeling Act (15 U.S.C. 1451 et. seq.), and parts of the Egg Products Inspection Act. In carrying out its responsibilities under these acts, FDA conducts inspections of establishments that manufacture, process, pack, or hold foods, with the exception of certain establishments that are regulated exclusively by FSIS. FDA also inspects vehicles and other conveyances, such as boats, trains, and airplanes, in which foods are transported or held in interstate commerce. Nothing in this agreement shall lessen the responsibilities or authorities of FSIS or FDA under their statutory authorities.

IV. SUBSTANCE OF AGREEMENT

1. List of District Level Contacts

The agencies agree to develop, maintain, and annually update a list of their districts and of persons to contact at the district management level. In addition to the annual updates to these lists, each district agrees to promptly inform its counterpart district of any change in the contact person for that district. The agencies also agree to develop and maintain a list of the district offices responsible for each state and territory. Each agency agrees to promptly inform the other agency of any changes in the jurisdiction of district offices or in the field organization of the agency. These lists are to be distributed to the district managers of both FSIS and FDA

2. List of Dual Jurisdiction Establishments

The agencies agree to develop, maintain, and annually update a list of dual jurisdiction establishments (hereinafter ADJEs), that is, establishments that prepare, pack, hold, or otherwise handle both foods regulated by FSIS and foods regulated by FDA. This list is to be organized by state and territory and will be distributed to the district managers of both FSIS and FDA. When updating this list, each agency agrees to identify all DJEs that have discontinued operations that are under its jurisdiction.

3. System of Communication

The district offices of each agency agree to promptly report to their counterpart district offices certain findings, as set forth in paragraphs 5, 6, and 7, relating to DJEs. The district office receiving the report agrees to respond with information regarding any planned or completed follow-up action relating to the reported information. District management of both agencies are encouraged to initiate contact and to meet annually, or as frequently as necessary, to facilitate the exchange of information about establishments and foods prepared, packed, held, or otherwise handled by these establishments. The agencies agree to work together to develop, put in place, and maintain a system of electronic communication at the district level to facilitate the exchange of information about the DJEs

4. Notification of Periodic Inspection

Each agency agrees to attempt to notify the appropriate contact identified in paragraph 1 of this section prior to conducting an inspection of a DJE that is not under continuous FSIS inspection. In addition, FDA agrees to attempt to notify the FSIS inspector prior to inspecting a DJE that is under continuous inspection and to invite the FSIS inspector to accompany the FDA investigator on the inspection.

5. Findings Involving DJEs That Are To Be Reported By Both Agencies

The district office of each agency is to notify its counterpart district office of the following findings in a DJE:

- a. Foods implicated in outbreaks of foodborne illness, injuries, or adverse reactions.
- b. Foods found to be contaminated or mislabeled such that there is a reasonable probability that the use of or exposure to such products will cause serious adverse health consequences. Hazards that constitute contamination or mislabeling covered under this paragraph are attached as Appendix A
- c. A processing condition or failure that is likely to result in food contamination leading to outbreaks of foodborne illness, injuries, or adverse reactions.
- d. Foods that have been recalled. result in food contamination or outbreaks of foodborne illness (e.g., hepatitis).
- g. Convictions of a DJE, or any officer or key employee of a DJE, for any felony
- e. Reports of tampering or threats of tampering.
- f. A food handler diagnosed as having a communicable disease that is likely to or more than one misdemeanor involving the DJE or any food prepared, packed, held, or otherwise handled in the DJE.
- h. Convictions of an establishment preparing, packing, holding, or otherwise handling meat, poultry or egg products solely under state regulation and foods regulated by FDA, or any officer or key employee of such an establishment, for any felony or more than one misdemeanor involving the establishment or any food prepared, packed, held, or otherwise handled in the establishment.

6. Additional Findings Involving DJEs That Are To Be Reported By FSIS to FDA

In addition to the findings in paragraph 5, the FSIS district office is to notify its counterpart district office of FDA of the following finding in a DJE: a. FSIS action to withhold the mark of inspection or to suspend or withdraw the grant of inspection.

7. Additional Findings Involving DJEs That Are To Be Reported By FDA to FSIS

In addition to the findings in paragraph 5, the FDA district office is to notify its counterpart district office of FSIS of the following findings:

Any other processing condition in a DJE that could render foods bearing a USDA mark of mandatory or voluntary inspection adulterated or mislabeled.

Reason to believe that an FDA-regulated ingredient that would adulterate a meat, poultry, or egg product if used in it has been sent to or received by an FSIS-regulated establishment.

8. Follow-Up Action

The agency receiving notification of a finding listed in paragraphs 5, 6, or 7 agrees to evaluate it and take appropriate action.

b. For all reported findings listed in paragraphs 5, 6, or 7, the agency receiving the notification agrees to track and use the information in program evaluation, work planning, and consideration of whether action against the establishment is warranted.

c. The agency receiving the notification of a finding listed in paragraphs 5, 6, or 7 agrees to respond to the notification within 30 days by communicating the disposition of the notification to the notifying agency at the district management level, including, if appropriate, any and all actions planned and taken by the agency receiving notification. In addition, the agencies agree to explore the feasibility of granting each other access to appropriate computer monitoring systems to permit interagency tracking of findings listed in paragraphs 5, 6, or 7.

9. Information Sharing and Confidentiality

To promote increased cooperation and efficient use of enforcement resources, each agency agrees to share information for enforcement purposes upon request by the other agency, to the extent permitted by applicable law. All non-public information shared between the two agencies pursuant to this agreement is limited by the limitations established by statute or regulation on interagency sharing of information. The current policies and procedures for sharing such information are attached as Appendix B.

10. Training

The agencies agree to develop and provide appropriate training in the inspectional techniques and processes of each agency as the agencies determine is necessary to ensure that the contacts for each agency have an appropriate understanding of the workings of the other agency. This understanding will help ensure the successful implementation of this agreement. The agencies agree to develop and initiate the training as quickly as possible. The district managers of both agencies are encouraged to evaluate training needs during annual meetings, or as frequently as necessary, to determine whether additional training is warranted.

11. Joint Enforcement Activities

The agencies agree to establish a group to explore the feasibility of joint enforcement activities. This group is to report its findings and recommendations by March 1, 1999 to the Commissioner of FDA and the Administrator of FSIS.

12. Re-evaluation of the Agreement

The agencies agree to re-evaluate the effectiveness of this agreement after it has been in effect for one year. The agencies also agree to explore the feasibility of expanding their cooperative activities after one year, or sooner if the agencies agree that it is appropriate to do so.

V. PERIOD OF AGREEMENT

The agencies agree to begin implementing this agreement within 30 days from execution by both parties. This agreement will be effective indefinitely. It may be modified by mutual consent or terminated by either party upon 30 days= written notice to the other.

VI. PREVIOUS AGREEMENTS

This agreement supersedes the Memorandum of Understanding on coordination of inspectional efforts signed by FSIS on July 14, 1983 and by FDA on July 25, 1983. This MOU does not modify any other existing agreements between USDA and FDA.

VII. NAME AND ADDRESS OF PARTICIPATING AGENCIES

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APPROVED AND ACCEPTED FOR APPROVED AND ACCEPTED FOR
THE FOOD SAFETY INSPECTION THE FOOD AND DRUG
SERVICE ADMINISTRATION

By:
Thomas J. Billy
Title: Administrator, FSIS

By:
Michael A. Friedman, M.D.
Title: Deputy Commissioner
for Operations, FDA

Date:
Updated: 03/15/99